IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINETEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION No: 19765 of 2004

Between:

M. Narasimhulu, S/o. M. Narasimhappa,
R/o. Boyagiri Street, Kalayandurg Town, Anantapur District.

..... PETITIONER

AND

1 The District Collector, Anantapur District.
2 The Secretary, Department of General Administration, Government of Andhra Pradesh, Secretariat Buildings, Hyderabad.
3 The Commissioner, Excise & Prohibition, Hyderabad.
4 The Director, Government Regional Prohibition and Excise.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Habeas Corpus by holding continued detention of B. Mallikarjuna, S/o. Late b. Ramanna, in proceedings of the 1st respondent in Rc.No.4641 PXE/2004/B, dt. 19-09-2004, as illegal, arbitrary and unconstitutional and consequently set the detenu at liberty forthwith.

Counsel for the petitioner: Mr.Chilamkuri Hanumantha Rayudu

Counsel for the respondents: The Advocate General

The Court made the following:

ORAL ORDER: (BY GB,J.)

The detention order dated 19-9-2004 issued by the Collector and District Magistrate, Anantapur district is challenged in this Writ Petition.

2. The Collector and District Magistrate by virtue of the powers vested under Section 3 of Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act (Act No.1 of 1986), issued the order of detention containing as many as 6 grounds. The said order came to be challenged in this Writ Petition.

3. The learned Senior Counsel appearing for the detenu submits that the order of detention is *ex facie* illegal and not sustainable in law. Though, he places number of submissions in support of the case, one such submission is that the ground mentioned in ground Nos.1 to 6 are stale in nature and they related to the years between 1999 to 2004 and the order of detention is passed in 2004. Thus, he submits that the incidents are not in proximity or continuity with the date of detention order and therefore the grounds are stale. In support of his contention, he placed reliance on the decision of the Full Bench reported in **S. JAYAMMA v THE COLLECTOR AND DISTRICT MAGISTRATE, KUDDAPA** wherein it was held that though there is no specific provision for taking into consideration the past events by the detaining authority, it was held that such events should have close and continuous link and proximity so as to provide rational nexus between the incident relied on and the satisfaction arrived at.

4. We have heard the learned Advocate General also.

5. We are in agreement with the contentions raised by the learned Senior Counsel appearing for the detenu. In this case the earliest ground is ground No.6 which relates to the incident alleged to have taken place on 15-4-1999 and the present order of detention is passed in 2004 and thus there is a gap of 5 years Therefore, we do not find any proximity or continuity of the incidents. Under those circumstances

relying on the Judgment cited supra (1), we are inclined to set aside the order of detention and accordingly it is set aside.

6. In the result, the Writ Petition is allowed and the order of detention is hereby quashed and the detenu shall be set at liberty forthwith, if he is not required in any other case.

_____

(G. BIKSHAPATHY, J.)

Date: 19-11-2004

_____

(CH.S.R.K. PRASAD, J.)

ES

That Rule Nisi is made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this **Friday the Nineteenth day of November Two thousand and Four.**

-

-

ASSISTANT REGISTRAR

To

1 The District Collector, Anantapur District.
2 The Secretary, Department of General Administration, Government of Andhra

Pradesh, Secretariat Buildings, Hyderabad.
3 The Commissioner, Excise & Prohibition, Hyderabad.
4 The Director, Government Regional Prohibition and Excise, Regional Prohibition and Excise Laboratory, Chittoor.

5. 2 CCs to the Advocate General, High Court of A.P., Hyderabad (OUT).

6. 2 CD copies.